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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/706,688	11/12/2003	Gary Lee Hawk	60873	7000

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EXAMINER

CONLEY, FREDRICK C

ART UNIT	PAPER NUMBER
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3673

DATE MAILED: 04/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/706,688

Applicant(s)

HAWK ET AL.

Examiner

FREDRICK C CONLEY

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-13 and 16-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 16-19 is/are allowed.
- 6) ☒ Claim(s) 6 and 9-13 is/are rejected.
- 7) ☒ Claim(s) 7-8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 9, and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,665,894 to Moffa et al. in view of U.S. Pat. No. 2,981,959 to Burnham.

Claim 6, Moffa discloses a patient lifting apparatus, comprising:

an upright member 120;

a boom 122 mechanically associated with said upright member for conveying a patient from one location to another; and

a telescoping foot member that is movable between a stored position and an extended position (col. 4 lines 26-39). Moffa fails to disclose a support structure comprising a lower support bar that extends across a bed frame and has each of its ends fastened to a respective leg of the bed frame. Burnham discloses a support structure comprising a lower support bar (30,31) that extends across a bed frame and has each of its ends fastened to a respective leg of the bed frame. It would have been

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obvious for one having ordinary skill in the art at the time of the invention to employ the support structure as taught by Burnham in order to secure the lifting apparatus of Moffa to a bed frame.

Claim 9, wherein said support structure comprises an upper bearing 18 that allows smooth rotation of the upright member relative to the patient support, and a lower bearing 44 that transfers the vertical force of a patient's weight into the patient support (Burnham).

Claim 11, wherein said boom is pivotally mounted to said upright member for rotation about a generally horizontal axis and further comprising a linear actuator 128 connected between said upright member and said boom for raising and lowering said boom (Moffa).

Claim 12, wherein said upright member is pivotal about a vertical axis, and further comprising an actuator 316 for rotating the upright member about said vertical axis to swing the boom in a side to side movement.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,742,201 to Porcheron in view of U.S. Pat. No. 2,981,959 to Burnham.

Claim 10, Porcheon discloses a patient lifting apparatus comprising:

an upright member 10,

a boom 23 mechanically associated with said upright member for conveying a patient from one location to another, and

a support arm 3(2)(col. 2 lines 10-20) mechanically associated with the upright member for rotating said support arm with the boom, said support arm being positioned

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to engage a floor to transfer the vertical force of a patient's weight into the floor.

Porcheron fails to disclose a support structure. Burnham discloses a support structure 12. It would have been obvious for one having ordinary skill in the art at the time of the invention to employ the support structure as taught by Burnham in order to secure the lifting apparatus of Porcheron to a bed frame.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 6,665,894 to Moffa et al. in view of U.S. Pat. No. 2,981,959 to Burnham, and further in view of U.S. Pat. No. 6,047,418 to Seide et al.

Claim 13, wherein said boom is rigidly mounted to said upright member (Moffa). Moffa, as modified, fails to disclose a winch having a cable. Seide discloses a lifting apparatus having a winch with a cable that hangs from a free end of a boom (col. 4 lines 13-18). It would have been obvious for one having ordinary skill in the art at the time of the invention to employ a winch as taught by Seide with the boom of Moffa in order to extend and retract the sling.

Allowable Subject Matter

Claims 7-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 16-19 are allowed.

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Response to Arguments

Applicant's arguments with respect to claims 6 and 9-13 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to FREDRICK C CONLEY whose telephone number is 703-308-7468. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, HEATHER SHACKELFORD can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FC



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